



EMPLOYMENT TRIBUNALS

Claimant: Mr Jitesh Santilale

Respondent Vanquis Bank Limited

On: 20 and 21 April 2026

At: Watford Tribunal via Common Video Platform

Before: Employment Judge Shrimplin

Representation

Claimant: not represented

Respondent: Mr Nacif (counsel).

Judgment

The claim for unfair dismissal under the Employment Rights Act 1996 s94 is not well founded and is dismissed.

Reasons

1. An oral judgment was delivered at the hearing on 21 April 2026 and written reasons have been requested by the claimant.
2. The full merits hearing was held on 20 and 21 April 2026 via Common Video Platform. I heard evidence from the claimant and, on behalf of the respondent, from Mr Pyrah and Mr Kelly. An agreed hearing bundle of 439 pages was provided and references to page numbers within this judgment are references to that bundle. I was also provided with written closing submissions and heard representations from both parties.

Background

3. The claimant was employed from June 2021, (page 55) working in a hybrid pattern (page 83), at the Respondent, most recently as a business analyst.
4. In 2024, the Claimant requested permission to work from Dubai where his son was to study at the university. This was to be a temporary arrangement until his son was settled. Permission was given (page 137) for him to work from Dubai for 3 months between 2 September and 2 December 2024 in accordance with the guidance set out in the then Hybrid and Flexible Working policies (pages 89 and 117). This was not a permanent

5. arrangement and was to be granted on an exceptional basis only. The Claimant then travelled on 16 September.
6. In late November 2024 (page 141, 148), the Claimant made a second request to remain in Dubai for a further 3 months from the 2 Jan 2025 as there were matters he still needed to attend to.
7. That request was refused at the beginning of December (page 152,155) on the basis that there were potential tax, payroll and immigration implications for both the individual and the company. I note in particular the changes which would arise after spending more than 183 days in that country and the potential need for payroll services to be based there. The Respondent took a low risk approach to such issues and declined to increase that risk appetite. They had sought advice from their Risk and Compliance team.
8. The Claimant and his line manager agreed he could remain in Dubai, using his annual leave and bank holidays until 2 January 2025. (page 150) They later also agreed that the Claimant could take leave until the end of January 2025 (page 163).
9. There was discussion between the Claimant and his line manager during January 2025 and internally within the Respondent. On 23 January, the Claimant informed his Line manager that he would now need to stay in Dubai until the end of June when his son had finished his first year at university as his wife was not fit to travel (page 163, 164, 158), and that they would then return to the UK.
10. On 29 January, the Claimant was told that he would have to return to the UK on 1st February 2025 or his refusal to return would be treated as a resignation and his contract terminated (age 162). Other options such as unpaid leave or a career break were considered but were not acceptable to the Claimant due to his financial circumstances (page 162).
11. On 31 January the Claimant was treated as having resigned and his access to company systems and laptop was removed.
12. The Claimant requested the company review the decision to “dismiss” him on 7 February 2025 (page 172, 173). Mr Pyrah was appointed as the Grievance Manager. It was not clear from the hearing bundle exactly which documents were provided to him as part of those considerations.
13. On 13 February 2025 the Claimant informed his line manager that he would not be able to return the Respondent’s laptop until he could do so in person as it could not be posted. He stated he was returning in July 2025 and provided a copy of the ticket.(page 176).
14. An interview was held with the Claimant on 24 Feb 2025, however the connection was very poor. The short record of that meeting (pages 188-189) states that the Claimant had a residence visa and had purchased a property. Mr Pyrah in evidence confirmed that the record was inaccurate as the Claimant did not state he had purchased a property. The Claimant asserts that he did not say that he had a residence visa or a property. The notes of that meeting were not offered to the Claimant to comment on and Mr Pryah did not correct them.

15. The Claimant in response sent an email setting out the position (page 179-180). It is not clear if Mr Pyrah saw that email.
16. The meeting notes also stated that the Claimant wished to be reinstated and continue to work for the Respondent but in Dubai and that he had a flight booked for 2 July 2025 (page 169). In evidence, the Claimant said that ticket was the only one he could book, had been booked as a “backstop” and would be changed if his wife could travel sooner.
17. An outcome letter, dated 4 March 2025, was emailed to the Claimant on 7 March (page 208-212) . The outcome was that the original decision to treat his refusal to return on 1 February was set aside, and the Claimant was reinstated with effect from 31 January, but would remain unpaid as he was unable to work from the UK.
18. The outcome letter states that the Claimant stated “unless HR are able to find a solution to allow me to remain, I will regrettably have to leave”. That quote is from a disputed email which the Claimant states he drafted at a time when he was desperate but did not send (page 426-428). Mr Pyrah could not say whether that email was part of the material he was provided.
19. The letter also dismissed the Claimant with effect from 7 March for his failure to follow a reasonable management instruction to return to the UK and, that the Claimant would be absent without leave if he did not return given his stated intention not to do so ie he had stated that he could not return until the end of June. Together this was the “some other substantial reason” to terminate the employment. He was to receive payment in lieu of notice and the Respondent would not seek to recoup leave that had been taken in advance.
20. No appeal against that outcome was allowed.(apge 208)
21. The Grievance policy states that a grievance outcome may be to uphold, partially uphold or reject the grievance.
22. The disciplinary policy states that unauthorised absence and/or failure to follow a reasonable management request may be considered as misconduct and persistent unauthorised absence may be considered as gross misconduct and therefore grounds for dismissal. It also states that “the formal disciplinary process must be implemented in full before dismissal action is taken unless there are exceptional circumstances such as gross misconduct”.

Findings of fact

23. The original agreement for the Claimant to work in Dubai was a short term arrangement and was not a Flexible Working request under the Employment Rights Act 1996 as it was not a permanent change to his terms and conditions of employment.
24. The Respondent considered that any further extension to the Claimant’s working abroad (beyond the 90 days already agreed) may result in increased risk from a tax and/or immigration viewpoint for both the company and the individual, especially if the working time in Dubai exceeded 183 days. It was effectively a new risk assessment. Having taken advice from its internal Risk and Compliance team that there may be risks which would need further investigation, the Respondent decided it was unwilling to accept any increased risk. Whilst the Claimant suggested various links to HMRC websites, there was no obligation on the Respondent to explore this further.

25. By the end of January, the Claimant knew that he would need to remain in Dubai beyond 31 January 2025 due to his son's position and his wife's illness. He had not said he would resign and was still seeking to change the Respondent's mind on the risks involved.
26. The Claimant did not resign on 31 January 2025.
27. By the end of January, it was the Claimant's settled intention to stay in Dubai until his son completed his university year and he had booked a return flight on 2 July 2025. It was unlikely he would return before that date.
28. At that time, his wife was unwell and unable to travel and there was no clear indication of when she would be able to do so. That position did not change.
29. The Claimant had not purchased property in Dubai.
30. The Claimant's conduct and performance throughout his employment was acceptable.
31. The reason for the dismissal on 7 March was the refusal of the Claimant to return to the UK and continue working once the Respondent had refused his application for additional time working in Dubai after the end of January 2025 and in the absence of any alternative arrangement, such as unpaid leave, which had been rejected by the Claimant. This was set out in the dismissal letter as a failure to comply with a reasonable management instruction and a subsequent unauthorised absence.
32. In relation to the dismissal on 7 March, I find that :-
 - a. The notes of the meeting were not accurate (ie not reviewed and corrected by Mr Pyrah or the Claimant).
 - b. The Claimant's email in response to the meeting was not considered
 - c. The outcome letter refers to an email which was not sent by the Claimant.
 - d. The Claimant was not, after reinstatement, given an opportunity to be heard or suggest further options before being dismissed on 7 March and therefore no disciplinary process was followed.
 - e. The Claimant was not given an opportunity to appeal.
 - f. By the time of the dismissal, the resolution of the Claimant's request to continue to work from Dubai (after the end of the first agreed request) had been discussed for around 3 months without resolution.

The Law

33. Section 94 of the Employment Rights Act 1996 (ERA 1996) sets out the right for employees not to be unfairly dismissed and Section 98 of that Act deals with the fairness of dismissals. Determining whether a person has been unfairly dismissed is a two stage process. Firstly, the employer must show that it had a potentially fair reason for the dismissal, that is a reason which falls within s98(1)(b) of the Act. If, and only if, the employer shows that it had a potentially fair reason for the dismissal, the tribunal must consider the matters set out in s98(4) of the Act and decide whether the employer acted fairly or unfairly in dismissing the employee.
34. For the purposes of this case, section 98 provides as follows (as far as is relevant):
 - (1) *In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show –*
 - a. *the reason (or, if more than one, the principal reason) for the dismissal, and*
 - b. *that it is either a reason falling within subsection (2) or some other substantial reason*

of a kind such as to justify the dismissal of an employee holding the position which the employee held.

Conclusion on grounds for dismissal

35. I find that the reason given for the dismissal, namely the inability of the Claimant to return to the UK and continue working, falls within s98(1)(b) and was for some other substantial reason. This was therefore a potentially fair reason for dismissal.

Fairness of the dismissal

36. Having so found, the question of the fairness of the dismissal falls to be determined under section 98(4) of the ERA 1996 which sets out that

the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

- (a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and*
- (b) shall be determined in accordance with equity and the substantial merits of the case.*

37. I applied the three-stage test in the leading case of **British Homes Stores Ltd v Burchell [1980] ICR 303**, namely, to consider whether the respondent acted reasonably in all the circumstances and, in particular,

- a. whether there was a genuine belief in the reasons for dismissal,
- b. whether there were reasonable grounds for that belief and
- c. whether there was a reasonable investigation

38. All of these elements combine together to an overall assessment of whether the dismissal was or was not unfair.

39. The reasonableness or otherwise of the employer's response, with reference to the above guidance in Burchell, is assessed with reference to the "range" or "band" of reasonable responses test. It is not the role of the Tribunal to assess the evidence and to decide whether the claimant should or should not have been dismissed or to substitute its decisions for the decisions made by the respondent. **Sainsburys Supermarkets v Hitt [2003] IRLR 23**.

40. The range of reasonable responses is such that it may be possible for some reasonable employers to dismiss and some reasonable employers to impose a lesser sanction short of dismissal. Therefore, a dismissal will only be unfair if dismissal is a sanction outside that range and if no reasonable employer would have dismissed on that basis.

41. I considered, as part of that, whether the process followed was reasonable bearing in mind the resources of the Respondent and the circumstances. I note the case law - **Polkey v AE Dayton Services Ltd [1987] IRLR 503** which sets out that :

The Tribunal is able to conclude that the employer himself, at the time of the dismissal, acted reasonably in taking the view that, in the exceptional circumstances of the particular case, the procedural steps normally appropriate would have been futile

42. However, not every procedural defect will make a dismissal unfair. It is an objective test and the test is whether an employer, acting reasonably, could have made the decision that it would be futile to follow proper procedures (**Duffy v Yeomans and Partners 1995 ICR 1**).

43. I consider that, at the time the Claimant was dismissed, the respondent had a genuine belief in the reason for dismissal as set out in the dismissal letter, and that the respondent had reasonable grounds for that belief.
44. While there were elements of the investigation and dismissal process which might have been dealt with better, overall it was a reasonable process bearing in mind the circumstances of the claimant, the Respondent and the issues involved. The Respondent acted reasonably in considering that a further disciplinary process would have been futile as the end result would have been the same. Another employer, acting reasonably, could have adopted a similar approach.
45. The dismissal was therefore within the range of reasonable responses.

Conclusion

46. I considered the matters noted above and considered the “equity and the substantial merits of the case” as set out in the Employment Rights Act.
47. The claimant’s dismissal was not unfair within the terms of the Employment Rights Act 1996.

Approved by
Employment Judge Shrimplin

Date: 4 May 2026

SENT TO THE PARTIES ON

8 May 2026
AND ENTERED IN THE REGISTER

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